

SOUTHERN DISTRICT OF TEXAS
(LAREDO)

UNITED STATES OF AMERICA,
Plaintiff,

v.

FRANCISCO FLORES,
Defendant.

) CASE NO.: 5:18-cr-00215-001
) JUDGE DIANA SALDANA
)
) MOTION FOR LEAVE FOR EXTENSION OF TIME TO FILE
) A DELAYED NOTICE OF APPEAL
)
)

* * * *

COMES, Defendant Fransico Flores, in a pro se filing, acting in the above reference matter, pray and respectfully hereby moves this Honorable Court to grant said motion in this matter.

The Defendant Francisco Flores, is a pro se litigant and pro se pleadings are held less stringent standard than formal pleadings drafted by lawyers. (See Haines v. Kerner, 404 U.S. 519, 520-21, 92 S. Ct. 594, 30 L. Ed. 2d 652 (1972)).

CASE BACKGROUND

In May 2018, indictment (CT. 1) Possession of a Firearm, in violation of 18 U.S.C. §§ 922(g)(3) and 924(a)(2); (CT. 2, 3, 4, 5) Possession with Intent to Distribute Methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(C).

On October 11, 2018, plea hearing held, Flores plead guilty to Counts 1, 2, 3, 4, 5.

On September 3, 2019, sentencing held, district court sentenced Flores to 151 months imprisonment, five (5) years Supervised Release.

On September 3, 2019, judgment entered.

LAW AND ARGUMENT

Please be advised that in the Defendant Francisco Flores's plea agreement, it specifically states that he can appeal his sentence on Counts 2, 3, 4, 5,. (See Plea Agreement);(see also Judgment in Criminal Case).

The Defendant Francisco Flores, had specifically requested and instructed defense counsel to file an "notice of appeal" on his behalf at sentencing stage of the proceeding. Which, defense counsel informed Flores that a proper and timely "notice of appeal" will be filed on his behalf.

The Defendant Francisco Flores, was curious of why he had not received a notice from the Fifth Circuit Court of Appeals verifying that his appeal was filed in their Court. So, Flores proceeded to use due diligence and contact family members to contact the Fifth Circuit Court of Appeals Clerk of Court to see if his attorney indeed filed a timely "notice of appeal" on his behalf. And was told by the Clerk that his attorney filed to file an timely "notice of appeal" on his behalf. Upon being informed of this information, Flores is using urgent due diligence to contact this Court to request leave to file a delayed "notice of appeal".

I FEDERAL RULE OF APPELLATE PROCEDURE 4(b)(4)

(b) Appeal in a Criminal Case

(4) Motion for Extension of Time

Upon a finding of excusable neglect or good cause, the district court may before or after the time expired, with or without motion and notice, extend time to file a notice of appeal. (See Appeal as a Right Rule 4).

II. UPON REQUEST FROM DEFENDANT FRANCISCO FLORES DEFENSE COUNSEL WAS OBLIGATED TO FILE AN NOTICE OF APPEAL.

"[A] lawyer who disregards specific instructions from the defendant to file a notice of appeal acts in a manner that is professionally unreasonable." (See *Roe v. Flores-Ortega*, 528 U.S. 470, 477, 120 S. Ct. 1029, 145 L. Ed. 2d 985 (2000)); (see also *U.S. v. Tapp*, 491 F.3d 263, 265 (5th Cir. 2007); (*U.S. v. Rivas*, 450 F. App'x 420, 429 (5th Cir. 2014))("The Court should grant out-of-time direct appeal)).

CONCLUSION

WHEREFORE, THE ABOVE REASONS, THE Defendant Francisco Flores, pray and respectfully hereby request this Honorable Court to GRANT said motion, and the following: (1) appoint counsel (CJA) pursuant 18 U.S.C. § 3006A; or (2) other relief the Court deems appropriate in the interest of justice, fairness, integrity, or public reputation of the judicial proceeding.

Thank you and God bless the United States of America.

Respectfully submitted,

/s/ 

Francisco Flores #37470-479, Pro Se

F.C.I. Elkton (Low)

P.O. Box 10

Lisbon, Ohio. 44432

CERTIFICATE OF SERVICE

I hereby certify that the foregoing motion has been sent to the office of the Clerk of Court on this 21st day of October 2019, for electronic dissemination CM/ECf system by first class U.S. mail postage prepaid.

/s/ Francisco Flores

Francisco Flores #37470-479, Pro Se

F.C.I. Elkton (Low)

P.O. Box 10

Lisbon, Ohio. 44432

NAME: Elanise Flores
REG # 37420-479
Federal Correctional Institution Elkhart
P. O. Box 10
Lisbon, Ohio 44432



CLEVELAND OFFICE
THU 24 OCT 2019 PM

337470 479

Clerk Of Court
1300 Victoria Street, 1st Floor
Laredo, TX 78040
United States

" Legal Mail "

" Legal Mail "

NEW YORK CORRECTIONAL INSTITUTION
NEW YORK, NY
RECORDED 14432 10/34/19
DATE
OUR RECORDS SECTION IS REQUESTING THROUGH SPECIAL
DELIVERY SERVICE TO DELIVER TO YOU THE
ENCLOSURE. IF YOU ARE NOT INTERESTED IN THE
ENCLOSURE, PLEASE RETURN IT TO THE
RECORDS SECTION. IF YOU ARE INTERESTED, PLEASE
RETURN THE ENCLOSURE TO THE RECORDS SECTION.
PLEASE RETURN THE ENCLOSURE TO THE ABO.